IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 300 of 2005

Nawab Ali s/o Mohd. Kamil
R/o Mohalla Pathanpur Mangalur
Police Station-Manglaur
District Haridwar.

Applicant

Versus

1 State of Uttaranchal
2 ADJ/ 1st F.T.C Roorkee
District Haridwar
3 Civil Judge (JD) Roorkee
4 Sudesh Pal Singh s/o Randhi Singh
R/o Village Libarhadi
District Haridwar.
Respondents

Hon'ble B.C.Kandpal, J

This petition under Section 482 Cr.P.C. has been filed by the petitioner Nawab Ali against the order dated 10.5.2005 passed by Addl. District Judge/ 1st F.T.C Roorkee in Criminal Revision No.99 of 2005 Nawab Vs State as well as the order dated 28.2.2005 passed by Civil Judge (JD) Roorkee in Criminal case No.1 / 2004 Sudesh Pal vs Nawab Ali under Section 138 Negotiable Instruments Act.

Brief facts giving rise to this petition are that a criminal complaint was filed by respondent No.4 Sudesh Pal Singh against the petitioner Nawab Ali before the court of learned Magistrate under Section 138 Negotiable Instruments Act.

Learned trial court summoned the petitioner for facing trial under Section 138 of Negotiable Instruments Act.

During the commencement of the trial the evidence of the prosecution was over and thereafter the statement of the petitioner was recorded under Section 313 Cr.P.C. The case was fixed for defence evidence. However, due to slackness on the part of the petitioner, the defence evidence could not be adduced by him, therefore the trial court closed the opportunity to the petitioner for adducing the evidence. The petitioner thereafter filed revision which was dismissed by ADJ/1st FTC.

Feeling aggrieved by the aforesaid order the petitioner has preferred this petition under Section 482 Cr.P.C. before this court.

The main contention of the petitioner before this court is that he has been deprived from adducing evidence in his defence and thus his valuable right may be jeopardise.

Learned counsel for respondent No.4 has argued that the intention of the petitioner is only to linger on the proceedings pending before the court below by way of adopting the delaying tactics.

However keeping in view the submissions advanced by the learned counsel for the parties I am of the view that the petitioner should be given one opportunity to adduce evidence in support of his defence before the court below. It is made clear that the petitioner shall not seek any adjournment before the court below and the court below is directed to proceed further in the matter without causing further delay and without giving any unnecessary adjournment to the parties concerned.

With the aforesaid observations the petition is disposed of.

Both the parties are directed to appear before the trial court on 22.12.2005. The petitioner shall adduce the evidence, if any, in his defence on the date fixed and he will not seek any adjournment in the case.

The trial court shall proceed further and decide the matter in accordance with law.

(B.C. Kandpal,J)

8.12.2005

nbj